



# The Southern Poverty Law Center<sup>®</sup>: A cause for all seasons

*The plaintiff is tolerance.*

## RICHARD FRIEDLING

When he was five years old in 1941, Morris Dees' farmer father, for one of only two times in Morris' life, gave him a "whipping" with his belt for calling a farm hand who was trying to get the already willful Morris – known as Bubba – off of his mule before he was ready, a "black nigger." "Don't you ever call anybody a 'black nigger.' You mind Wilson. You do what he says."<sup>1</sup> In such ways, the young Morris began to know at an early age how his father, and his father's ways, differed from those of many other white men in 1940s Alabama, where Jim Crow was very much alive and thriving and the promises of the 13th and 14th Amendments had yet – and would have many decades – to reach any meaningful consummation of their purpose.

The lessons and examples we glean from our parents bear life-long fruit, but seldom with sweeter or more prolific effect than with Mo Dees. After graduating from the University of Alabama School of Law in 1960, Dees opened his own law office in Montgomery as well as a successful book-publishing business, which, as he describes in his memoir, *A Season for Justice*, he sold in 1967 to the Times Mirror Corp. after "a night of soul-searching at a snowed-in Cincinnati airport." The proceeds allowed him to found the Southern Poverty Law Center (SPLC) in 1971 along with Joe Levin, legal director from its founding to 1976,

Photo by permission of SPLC



Dees

and who returned to become the SPLC's CEO after working in the Carter administration.

I didn't have to try these cases – or any cases at all. I was financially secure through business ventures begun long before

Joe Levin and I had founded the Center in Montgomery in 1971. I could hunt or fish or take my motorcycle on that trip around the world I'd never had time for. And if I was so set on working, I could open a comfortable, private practice or important cases challenging the segregation of the Alabama State Troopers and the Montgomery YMCA and the exclusion of minorities from juries.<sup>2</sup>

Through the use of civil law, it has been the flesh-and-blood disenfranchised, along with tolerance, which have been and remain the SPLC's "plaintiffs," in all their diversity.

The specific cases fought by the SPLC have been recounted in detail; here, the focus is on its continued relevance not only to the promulgation of greater tolerance of the diversity of our society, but to the practice of civil rights in the aftermath of the Obama election and beyond, which some worry will "generate an attitude that, in one fell swoop, the problem of discrimination in our society has been fixed." To understand the

ongoing relevance and necessity of the SPLC and the broad practice of civil rights law, it is essential to understand the seminal approach engendered by Dees, Levin & Co. in attacking these evils in a society at once a national melting-pot, and in which minority groups must feel free to celebrate their diversity.

## An innovative strategy

Dees, Levin & Co. are principal architects of the innovative strategy of applying business principles and basic tort law to track, publicize, and cripple or entirely extinguish hate-engendering. The strategy could not be simpler, if its successful application is supremely complex: The securing of a judgment for money damages against an organization for a tortious act or pattern of acts against a definable class of beleaguered minority clients, and then exercising the judgment to seize assets such as bank accounts, realty and any other attachable property.

Among Dees & Co.'s most famous cases to date include landmark damage awards which have driven several prominent neo-Nazi groups into bankruptcy, effectively causing them not only to disband (although they have reorganized under different names and with different leaders) but also to suffer the ignominy of turning the keys to their properties over to the SPLC. SPLC maintains a national database as these groups morph in attempts to remain viable.



Some have accused the SPLC of using its clients only as pawns in a grander scheme of “social engineering” (read, “liberalism”); but the SPLC’s clients are not mere ends to philosophical goals; they are damaged plaintiffs in need of and entitled to access to the court system for redress of very real grievances every bit as much as victims of tainted medicine or auto accidents. Yet the “accusation” of ideologue has followed Dees’ career since the inception of the SPLC.

In February, 1994, Dan Morse of the Alabama Montgomery Advertiser published multiple articles alleging financial mismanagement and misleading fundraising by the SPLC, summarizing his “investigation” as having produced evidence of “a complex civil rights organization essentially controlled by one man – Morris Dees.”<sup>8</sup> In reality, the SPLC is effectively and actively controlled by a diverse and extensive board of directors; but this makes a less tangible and comprehensible target than a single “ideologue.”

### Slow progress

Progress usually proceeds incrementally, no matter how just the cause; 48 years after the eight “Scottsboro Boys”<sup>3</sup> were tried by all-white juries who were represented by inexperienced attorneys given no time to prepare, and their subsequent imprisonment<sup>4</sup> for the alleged rape of two white women, a 26-year-old black man named Tommy Lee Hines was being similarly railroaded in connection with a series of black-on-white rapes in Alabama. An unprecedented (in Decatur) march and sit-in by members of the black community had little effect other than to stir up Klan interference. This culminated in a bloody confrontation in which two black marchers and two Klan members were hurt. One black man, Curtis Robinson, was charged with attempted murder of a wounded Klan leader; Robinson admitted shooting a weapon but claimed that it was in self-defense.

The “Free Tommy Hines” movement which ensued and the subsequent arrest and imminent prosecution of Curtis Robinson (no Klan members having been arrested for the wounding of the two black marchers) became a lightning rod for Klan activity not only in Decatur, but around the country. The perhaps foregone conviction of Robinson resulted in a relatively lenient two-year probation; but Dees was furious. On the way back to Montgomery, Dees told an associate that not only would they appeal the conviction, but they’d “have to figure out some way to haul the Klan into court for violating the civil rights of the Decatur marchers – something the federal government should have done from the start.”<sup>5</sup>

This was an advanced, but not radical, departure for the SPLC; one of their earlier cases involved suing the State of Alabama to integrate the Alabama State Troopers – not to integrate the ranks of the police force, but to use the case to stop the ongoing pattern of abuse directed at blacks by the then-all-white force. Suing the Klan wasn’t all that different; in less than four weeks, the SPLC filed a civil suit for damages against the Klan and Louis Beam, its “Grand Dragon,” personally.

That clients often do not seek out, but are sought out by, the SPLC, does not mitigate its role as a plaintiffs’ law firm achieving multiple ends through civil actions. Any tort attorney will react to the phrase “frivolous lawsuit” with lightning speed that damage suits for individual clients all also serve vast social goals; that lawsuits are the reason cars are infinitely safer now than before Ralph Nader published *Unsafe At Any Speed*; that our food, drugs, and airliners enjoy the safety record that they do, due to the efforts of a lawyer representing a client.

### Targeting hate groups

When Klansmen lynched a black teenager in Mobile, Alabama, SPLC

lawyers used a then-unprecedented legal strategy to hold the Klan accountable for the acts of its members, winning a \$7 million judgment for the mother of the victim, Michael Donald, who had been selected at random. The verdict bankrupted the United Klans of America and resulted in its national headquarters being sold to partially satisfy the judgment. Although the sale of the Klan’s headquarters, while not sufficient to satisfy the entire jury judgment, was sufficient to allow Beulah Mae Donald to buy her own home.

During the past 25 years, SPLC lawsuits have bankrupted or crippled 12 major hate groups in lawsuits representing the actual victims or their families of hate-motivated violence. A 1990 Portland, Oregon jury awarded a \$12.5 million judgment against Tom Metzger and his White Aryan Resistance group for the beating death of an Ethiopian immigrant.<sup>6</sup>

That the Vietnamese Fishermen’s Association in Texas didn’t seek out the SPLC, but was courted by the law firm does not vitiate that these were real clients, with real damages and grievances deserving of judicial redress. In the early 1980s, jingoistic Texas fishermen didn’t understand – or care to acquaint themselves with – the ways of Vietnamese fishermen. Most fled their homeland in the wake of the American and South Vietnamese defeat by communist forces. The Texas fishermen, frustrated over the influx of immigrants from Vietnam and the added competition on the shrimp fishing grounds, enlisted the “help” of the Klan in intimidating Vietnamese fishermen, by threatening to kill them and to burn their fishing boats.

The SPLC proved violations of the Sherman Anti-Trust Act, civil rights statutes, and Texas’s common-law tort of interference with contractual relationships to obtain permanent injunctions that successfully tied the hands of Louis Beam, the local Klan leader and his cohorts. More significantly, perhaps, the



court ruled that the guise utilized by the Klan, known as the Texas Emergency Reserve, was in fact a military organization and that its military and training activities were without the protection of the First Amendment right of assembly, granting an injunction which put the Reserve out of business.

“Civil rights,” writ large and as pursued by the SPLC, is far broader than the most headline-engendering cases. The SPLC’s ongoing “School-to-Prison Reform Program” aims to “stem the flow of children from schools to jails by ensuring that public schools provide the educational services needed by children with emotional disturbances (ED) and learning disabilities.”<sup>7</sup> The project enjoyed its first victory in 2005, the SPLC winning a settlement agreement in the Jefferson (Louisiana) Parish School System, which was systematically violating the rights of emotionally-disturbed, primarily African-American, school children by failing to make any special provision for overcoming their ED. Settlements were also reached with two other Louisiana school districts in 2006 and 2007, making a sweep of the three largest school districts in Louisiana.

In addition to its School to Prison Reform program, the SPLC has a long-standing program to divert non-violent juveniles from entering into the merry-go-round which criminalizes their exposure to conditions which have led to their entry into the juvenile “justice” system, by seeking to transform punishment into treatment and rehabilitation in seven southeastern states through enforcement of federal laws already requiring special educational services often ignored by school districts.

### **Hate groups continue to rise**

In the Age of Obama, some question the continued viability or need for organizations such as SPLC as part of relieved vigilance in the wake of the election of our first minority President. But “hate group” numbers have not only

risen by 54 percent since 2000 (the Age of Bush II), but may be proliferating even more since Obama’s election, fueled by fears of weaker anti-immigration laws, of the failing economy (shades of between-the-wars Germany) and by Obama’s very success, according to the “Year in Hate” issue of the SPLC *Intelligence Report* released on February 26, 2009.

“Oh man,” enthused blogger “Centimanus” on the white nationalist *Stormfront* Web site quoted in the *Intelligence Report*: “I am gleefully, sadistically looking forward to Obama as president... It will be a beautiful day when the masses look at the paper and truly realize they have lost their own country.”<sup>9</sup> Presumably, the “masses” referred to are “right-thinking” white Americans, who, it should be noted, will be a minority within the United States. Conceivably, portions of the Caucasian (“real”) Americans will one day be among SPLC’s plaintiffs, as the Illinois American Nazi faction has been rightfully represented by the ACLU on free speech grounds.

The SPLC identified 926 hate groups active in 2009, up more than four percent from the 888 groups in 2008. (In *California alone*, SPLC has identified many of the groups in its annual “Hate Group Map,” viewable on [www.SPLCcenter.org](http://www.SPLCcenter.org).)

### **Changing demographics**

Counter-intuitively to some – but obvious to the SPLC, ACLU, NAACP and others – not only are they a bulwark of tolerance and enfranchisement for minority groups, but with projected demographics for the next 50 years, they will also serve in that capacity for the developing minority of those of European white extraction, including those who presently decry the “meddling” of civil-rights groups’ mission and even their very existence. In a little over half a century, whites will once again become a minority in the United States as they were when the Constitution was conceived

without enfranchising all “Americans,” but rather ensuring the primacy of landed, moneyed white males in all branches of government and influential society. The nation’s political leaders are ill-prepared to deal with it, says a University of Florida researcher: “[b]y the year 2055 at current fertility and immigration rates, white European Americans will be a minority for the first time since they came to outnumber the Native Americans in the 18th century,” writes Joe Feagin, a graduate professor of sociology at the University of Florida and expert on race relations. “And none of our white leaders are paying any attention to desegregating our society in meaningful ways.”

In 2030 the majority of young people in the United States, those ages 18 and younger, will not be white, said Feagin, co-editor of a new book of essays about race, ethnicity and the urban crisis, *The Bubbling Cauldron*.<sup>10</sup> If our stars are in ourselves, the wisest course for white Americans recommended by Feagin – and thoroughly understood by the SPLC by understanding that denial of rights for one is a denial of rights for all – is to treat minorities equally now *before* they become the majority population.

“In theory, we’re a democratic republic, but in practice white men run the country,” Feagin said. “In theory, we like to talk about ourselves as a nation of immigrants, but increasingly white European Americans are becoming openly racist in attacking immigrants because the newcomers now are mostly Latinos and Asians.”

“For the most part, we do not enforce our anti-discrimination laws, we have only token enforcement,” he said. “If a black person is refused service in a restaurant or a Latino is discriminated against in renting an apartment, there is little place for them to turn for redress except the legal system, which requires substantial resources.”

It is reminiscent, for me, of the admonition every Passover that, as we were



slaves in Egypt, so must we be prepared to abhor the slavery of others wherever it may exist. Yet the Equal Employment Opportunity Commission, the major federal agency charged with enforcing anti-discrimination laws in the workplace, is overwhelmed with complaints and only resolves satisfactorily a fraction of the ones it receives, Feagin said.

And even if a victim wins a job back in a favorable settlement, there is little chance the discriminator will be significantly punished, he said.

The SPLC has and will continue to pick up much of the slack which the government has not the tools to tighten, and its relevance in the enlightened self-interest model which America, Feagin envisions, will only increase as we approach the middle of this still young century.

In my law school graduation speech, written in a time of hope following Bill Clinton's election and similar to that abiding in the age of Obama, I noted that as many of us wondered where our paths would lead after the bar exam, there were still plenty of dragons to be slain even in a dawning period of national optimism. That is as true now as it was then.

Complete updates of the identity and status of many of these dragons and of SPLC's publications and pending and

recent litigation are available on its excellent Web site and through its several free newsletters at: [www.splcenter.org](http://www.splcenter.org)

No matter how diverse and widespread the SPLC's activities – by in their own perception and in their every professional action, Morris Dees, Joe Levin, and their colleagues are not ideologues – they are trial lawyers representing real plaintiffs, first, last and always. It's just



Friedling

that in every case, the other plaintiffs at the table are and will remain our national, mutual need for tolerance and equal treatment under the law.  
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## Endnotes

<sup>1</sup> Morris Dees and Steve Fiffer, *A Season for Justice*, 1991 Charles Scribners' Sons 1991, p. 63.

<sup>2</sup> Morris and Fiffer, *A Season for Justice*, *supra*, at p. 5.

<sup>3</sup> The "Scottsboro Boys" case went to the United States Supreme Court twice, establishing the principles that, in the United States, criminal defendants are entitled to effective assistance of counsel (*Powell v. State of Alabama*, 287 U.S. 45 (1932)); and that people may not be *de facto* excluded from juries because of their race. *Norris v. Alabama*, 294 U.S. 587 (1935).

<sup>4</sup> Those convicted spent between six and nineteen years behind bars. In 1976, after the Scottsboro Boys had served such long prison sentences, oddly enough, it was arch segregationist Alabama Governor George Wallace who issued a pardon to the one remaining Scottsboro defendant still subject to the Alabama penal system, stating: "Bout damn time, y'all."

<sup>5</sup> *A Season for Justice*, *supra*, at p. 13.

<sup>6</sup> "Metzger Leaves Former Home a Mess, but its Undamaged." *The Oregonian* September 19, 1991; "Metzger Home Worth Only A Tiny Fraction of \$12.5 Million Sum" *The Oregonian* August 28, 1991

<sup>7</sup> "School-to-Prison Pipeline: Stopping the School-to-Prison Pipeline by Enforcing Special Education Law" *Southern Poverty Law Center – Legal Action* [www.splc.org/legal/schoolhouse/jsp](http://www.splc.org/legal/schoolhouse/jsp).

<sup>8</sup> Dan Morse, "A Complex Man: Opportunist or Crusader?," *Montgomery Advertiser*, February 14, 1994; Dan Morse and Greg Jaffe, "Critics Question \$52 Million Reserve, Tactics of Wealthiest Civil Rights Group," *Montgomery Advertiser*, February 13, 1994, page 15A.

<sup>9</sup> Quoted in *Hatewatch: Keeping an Eye on the Radical Right* Southern Poverty Law Center, SPLCenter.org. See also: Hate Groups Number Up by 54 percent Since 2000, February 26, 2009, *Southern Poverty Law Center* [www.splcenter.org/news/item.jsp?aid=366](http://www.splcenter.org/news/item.jsp?aid=366). "Stormfront's logo is a Celtic-stylized cross bearing the legend, "White Pride World Wide."

<sup>10</sup> Michael P. Smith, Joe R. Feagin, *The Bubbling Cauldron: Race, Ethnicity, and the Urban Crisis* University of Minnesota Press 1995, quoted by Cathy Green, "Whites Unprepared to Become Future Minority" *The Albion Monitor/News*, September 18, 1995 (<http://www.monitor.net/monitor>). For a full list of Professor Feagin's prolific books and articles, you are encouraged to visit his Web site at: [sociweb.tamu.edu/faculty/feagin](http://sociweb.tamu.edu/faculty/feagin).

